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11 Attorneys for Plaintiff  
 UNITED STATES OF AMERICA

12 UNITED STATES DISTRICT COURT  
 13 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
 14

15 UNITED STATES OF AMERICA, )  
 16 Plaintiff, )  
 17 v. )  
 18 STEVEN G. COOPERMAN, )  
 19 Defendant. )  
 20

No. CR 06-776(A) - \_\_\_\_

PLEA AGREEMENT FOR DEFENDANT  
STEVEN G. COOPERMAN

21 1. This constitutes the plea agreement between STEVEN G.  
 22 COOPERMAN ("defendant"), on the one hand, and the United States  
 23 Attorney's Office for the Central District of California, on the  
 24 other hand (the "USAO"). This agreement is limited to the USAO  
 25 and cannot bind any other federal, state, or local prosecuting,  
 26 administrative or regulatory authorities.

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1 PLEA

2 2. Defendant gives up the right to indictment by a grand  
3 jury and agrees to plead guilty to a one-count information in the  
4 form attached to this agreement or a substantially similar form.

5 NATURE OF THE OFFENSE

6 3. In order for defendant to be guilty of count one of the  
7 information, which charges a violation of Title 18, United States  
8 Code, Section 371, the following must be true:

9 (a) Beginning in or before 1988, and continuing  
10 through at least in or about 1999, there was an agreement between  
11 two or more persons to commit at least one of the crimes charged  
12 in the information, namely:

13 (i) to obstruct justice by corruptly influencing,  
14 obstructing, and impeding, and endeavoring to influence,  
15 obstruct, and impede, the due administration of justice in  
16 lawsuits filed and litigated in courts of the United States, in  
17 violation of Title 18, United States Code, Section 1503; and

18 (ii) to make false material declarations under  
19 oath in proceedings before and ancillary to courts of the United  
20 States, in violation of Title 18, United States Code,  
21 Section 1623(a);

22 (b) defendant became a member of the conspiracy, that  
23 is, joined in the illegal agreement, knowing of at least one of  
24 its objects and intending to help accomplish it; and

25 (c) one of the members of the conspiracy performed at  
26 least one overt act for the purpose of carrying out the  
27 conspiracy.

28 / / /

1       4. Defendant admits that defendant is, in fact, guilty of  
2 this offense, as described in count one of the information.

3                               PENALTIES

4       5. The statutory maximum sentence that the Court can  
5 impose for a violation of Title 18, United States Code,  
6 Section 371, is five-years imprisonment; a three-year period of  
7 supervised release; a fine of \$250,000 or twice the gross gain or  
8 gross loss resulting from the offense, whichever is greatest; and  
9 a mandatory special assessment of \$100.

10       6. Supervised release is a period of time following  
11 imprisonment during which defendant will be subject to various  
12 restrictions and requirements. Defendant understands that if  
13 defendant violates one or more of the conditions of any  
14 supervised release imposed, defendant may be returned to prison  
15 for all or part of the term of supervised release, which could  
16 result in defendant serving a total term of imprisonment greater  
17 than the statutory maximum stated above.

18       7. Defendant also understands that, by pleading guilty,  
19 defendant may be giving up valuable government benefits and  
20 valuable civic rights, such as the right to vote, the right to  
21 possess a firearm, the right to hold office, and the right to  
22 serve on a jury.

23       8. Defendant further understands that the conviction in  
24 this case may subject defendant to various collateral  
25 consequences. Defendant understands that unanticipated  
26 collateral consequences will not serve as grounds to withdraw  
27 defendant's plea of guilty.

28 / / /

WAIVER OF CONSTITUTIONAL AND OTHER RIGHTS

9. By pleading guilty, defendant gives up the following rights:

(a) The right to persist in a plea of not guilty.

(b) The right to a speedy and public trial by jury.

(c) The right to the assistance of legal counsel at trial, including the right to have the Court appoint counsel for defendant for the purpose of representation at trial. (In this regard, defendant understands that, despite his plea of guilty, he retains the right to be represented by counsel - and, if necessary, to have the Court appoint counsel if defendant cannot afford counsel - at every other stage of the proceedings.)

(d) The right to be presumed innocent and to have the burden of proof placed on the government to prove defendant guilty beyond a reasonable doubt.

(e) The right to confront and cross-examine witnesses against defendant.

(f) The right, if defendant wished, to testify on defendant's own behalf and present evidence in opposition to the charges, including the right to call witnesses and to subpoena those witnesses to testify.

(g) The right not to be compelled to testify, and, if defendant chose not to testify or present evidence, to have that choice not be used against defendant.

10. Defendant acknowledges that he breached the Case Disposition Agreement entered into between the parties effective August 22, 2000 in the case United States v. Cooperman, CR 98-1184(A)-ER (the "Case Disposition Agreement"), by committing

1 additional crimes during the time he was in prison between  
2 October 2001 and July 2003. Defendant further acknowledges that,  
3 pursuant to paragraph 26 of the Case Disposition Agreement, he  
4 has waived any and all statute of limitations defenses to the  
5 charges in the indictment in this case and in the information to  
6 which defendant is pleading guilty, because such charges were not  
7 time-barred as of August 22, 2000.

8 11. By pleading guilty, defendant gives up any and all  
9 rights to pursue any affirmative defenses, Fourth Amendment or  
10 Fifth Amendment claims, and other pretrial motions that could be  
11 filed on his behalf, including assertion of any defense based on  
12 statute of limitations or venue.

13 SENTENCING FACTORS

14 12. Defendant understands that the Court is required to  
15 consider the United States Sentencing Guidelines ("U.S.S.G." or  
16 "Sentencing Guidelines") among other factors in determining  
17 defendant's sentence. Defendant understands that the Sentencing  
18 Guidelines are only advisory, and that after considering the  
19 Sentencing Guidelines, the Court may be free to exercise its  
20 discretion to impose any reasonable sentence up to the maximum  
21 set by statute for the crime of conviction.

22 13. Defendant and the USAO agree that the Court should  
23 consider the 1998 Guidelines Manual because this version was in  
24 effect at the time defendant committed the offense charged in the  
25 information. Defendant agrees that consideration of the 1998  
26 Guidelines Manual does not violate the ex post facto clause, and  
27 defendant waives any claim that any other Guidelines Manual  
28 version should be considered instead of, or in addition to, the

1998 Guidelines Manual.

14. Defendant and the USAO agree and stipulate to the following applicable sentencing guideline factors:

Base Offense Level:	12	[U.S.S.G. § 2J1.3(a)]
Specific Offense Characteristics		
Substantial interference with admin. of justice:	3	[U.S.S.G. § 2J.13(b)(2)]
Abuse of position of trust:	2	[U.S.S.G. § 3B1.3]
Acceptance of responsibility:	<u>-3</u>	[U.S.S.G. § 3E1.1]

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Total Offense Level                      14

The USAO will agree to a downward adjustment for acceptance of responsibility only if the conditions set forth in paragraph 17 are met. Defendant and the USAO agree not to seek, argue, or suggest in any way, either orally or in writing, that any other specific offense characteristics, adjustments or departures from the applicable Offense Level be imposed. If, however, after signing this agreement but prior to sentencing, defendant were to commit an act, or the USAO were to discover a previously undiscovered act committed by defendant prior to signing this agreement, which act, in the judgment of the USAO, constituted obstruction of justice within the meaning of U.S.S.G. § 3C1.1, the USAO would be free to seek the enhancement set forth in that section.

15. There is no agreement as to defendant's criminal history or criminal history category.

16. The stipulations in this agreement do not bind either the United States Probation Office or the Court. Both defendant

1 and the USAO are free to:

2 (a) Supplement the facts by supplying relevant  
3 information to the United States Probation Office and the Court;

4 (b) Correct any and all factual misstatements relating  
5 to the calculation of the sentence; and

6 (c) Argue on appeal and collateral review that the  
7 Court's sentencing guidelines calculations are not error,  
8 although each party agrees to maintain its view that the  
9 calculations in paragraph 14 are consistent with the facts of  
10 this case.

11 DEFENDANT'S OBLIGATIONS

12 17. Defendant agrees that he will:

13 (a) Plead guilty as set forth in this agreement.

14 (b) Not knowingly and willfully fail to abide by all  
15 sentencing stipulations contained in this agreement.

16 (c) Not knowingly and willfully fail to: (i) appear as  
17 ordered for all court appearances, (ii) surrender as ordered for  
18 service of sentence, (iii) obey all conditions of any bond, and  
19 (iv) obey any other ongoing court order in this matter.

20 (d) Not commit any crime; however, offenses which  
21 would be excluded for sentencing purposes under U.S.S.G.  
22 § 4A1.2(c) are not within the scope of this agreement.

23 (e) Not knowingly and willfully fail to be truthful at  
24 all times with Pretrial Services, the United States Probation  
25 Office, and the Court.

26 (f) Pay the applicable special assessment at or before  
27 the time of sentencing.

28 / / /

THE USAO'S OBLIGATIONS

18. If defendant complies fully with all defendant's obligations under this agreement, the USAO agrees:

(a) To abide by all sentencing stipulations contained in this agreement.

(b) At the time of sentencing to move to dismiss the underlying indictment against defendant.

(c) At the time of sentencing, provided that defendant demonstrates an acceptance of responsibility for the offenses up to and including the time of sentencing, to recommend a three-level reduction in the applicable sentencing guideline offense level, pursuant to U.S.S.G. § 3E1.1.

(d) To recommend that defendant be sentenced to a term of imprisonment no greater than the low-end of the applicable sentencing guidelines range.

(e) Not to further prosecute defendant for violations of federal law within the scope of defendant's conduct described in (i) the underlying indictment in this case, (ii) the information to which defendant is pleading guilty, or (iii) Exhibit A to the Case Disposition Agreement. Defendant understands and agrees that the USAO is free to prosecute defendant for any other unlawful past conduct not specifically exempted by this agreement or any illegal conduct that occurs after the date of this agreement. Defendant understands that at the time of sentencing the Court may consider conduct not charged in the information to which defendant is pleading guilty when determining defendant's sentence under the Sentencing Guidelines and 18 U.S.C. § 3553.



BREACH OF AGREEMENT

19. If defendant, at any time between the execution of this agreement and defendant's sentencing on a non-custodial sentence or surrender for service of a custodial sentence, whichever is later, knowingly violates or fails to perform any of defendant's obligations under this agreement ("a breach"), the USAO may declare this agreement breached. If the USAO declares the agreement breached, and the Court finds such a breach to have occurred, defendant will not be able to withdraw defendant's guilty plea, and the USAO will be relieved of all its obligations under this agreement. In particular:

(a) The USAO will no longer be bound by any agreements concerning sentencing and will be free to seek any sentence up to the statutory maximum for the crimes to which defendant has pleaded guilty.

(b) The USAO will no longer be bound by any agreements regarding criminal prosecution, and will be free to prosecute defendant for any crime, including charges that the USAO would otherwise have been obligated not to prosecute pursuant to this agreement.

(c) The USAO will be free to prosecute defendant for false statement, obstruction of justice, and perjury based on any knowingly false or misleading statement by defendant.

20. Following a knowing and willful breach of this agreement by defendant, should the USAO elect to pursue any charge that was not filed as a result of this agreement, then:

(a) Defendant agrees that any applicable statute of limitations is tolled between the date of defendant's signing of

1 this agreement and the commencement of any such prosecution or  
2 action.

3 (b) Defendant gives up all defenses based on the  
4 statute of limitations, any claim of preindictment delay, or any  
5 speedy trial claim with respect to any such prosecution, except  
6 to the extent that such defenses existed as of the date of  
7 defendant's signing of this agreement.

8 LIMITED MUTUAL WAIVER OF APPEAL AND COLLATERAL ATTACK

9 21. Defendant gives up the right to appeal any sentence  
10 imposed by the Court and the manner in which the sentence is  
11 determined, provided that (a) the sentence is within the  
12 statutory maximum specified above and is constitutional, (b) the  
13 Court in determining the applicable guideline range does not  
14 depart upward in offense level or criminal history category and  
15 determines that the total offense level is 14 or below, and  
16 (c) the Court imposes a sentence within or below the range  
17 corresponding to the determined total offense level and criminal  
18 history category. Defendant also gives up any right to bring a  
19 post-conviction collateral attack on the conviction or sentence,  
20 except a post-conviction collateral attack based on a claim of  
21 ineffective assistance of counsel, a claim of newly discovered  
22 evidence, or an explicitly retroactive change in the applicable  
23 Sentencing Guidelines, sentencing statutes, or statutes of  
24 conviction. Notwithstanding the foregoing, defendant retains the  
25 ability to appeal the conditions of supervised release imposed by  
26 the Court, with the exception of the following: standard  
27 conditions set forth in district court General Orders 318 and 01-  
28 05; and the drug testing conditions mandated by 18 U.S.C. §§

1 3563(a)(5) and 3583(b)(7).

2 22. The USAO gives up its right to appeal the Court's  
3 Sentencing Guidelines calculations, provided that (a) the Court  
4 in determining the applicable guideline range does not depart  
5 downward in offense level or criminal history category, (b) the  
6 Court determines that the total offense level is 14 or above, and  
7 (c) the Court imposes a sentence within or above the range  
8 corresponding to the determined offense level and criminal  
9 history category.

10 COURT NOT A PARTY

11 23. The Court is not a party to this agreement and need not  
12 accept any of the USAO's sentencing recommendations or the  
13 parties' stipulations. Even if the Court ignores any sentencing  
14 recommendation, finds facts or reaches conclusions different from  
15 any stipulation, and/or imposes any sentence up to the maximum  
16 established by statute, defendant cannot, for that reason,  
17 withdraw defendant's guilty plea, and defendant will remain bound  
18 to fulfill all defendant's obligations under this agreement. No  
19 one -- not the prosecutor, defendant's attorney, or the Court --  
20 can make a binding prediction or promise regarding the sentence  
21 defendant will receive, except that it will be within the  
22 statutory maximum.

23 24. This agreement applies only to crimes committed by  
24 defendant and has no effect on any proceedings against defendant  
25 not expressly mentioned herein.

26 NO ADDITIONAL AGREEMENTS

27 25. Except for the Case Disposition Agreement, there are no  
28 promises, understandings or agreements between the USAO and

1 defendant or defendant's counsel. Nor may any additional  
2 agreement, understanding or condition be entered into unless in a  
3 writing signed by all parties or on the record in court.

4 PLEA AGREEMENT PART OF THE GUILTY PLEA HEARING

5 26. The parties agree and stipulate that this agreement  
6 will be considered part of the record of defendant's guilty plea  
7 hearing as if this entire agreement had been read into the record  
8 of such proceedings.

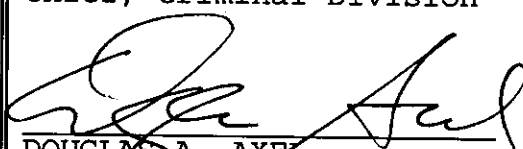
9 27. This agreement is effective upon signature by  
10 defendant, defendant's attorney, and an Assistant United States  
11 Attorney.

12 AGREED AND ACCEPTED

13 UNITED STATES ATTORNEY'S OFFICE  
14 FOR THE CENTRAL DISTRICT OF CALIFORNIA

15 GEORGE S. CARDONA  
16 Acting United States Attorney

17 THOMAS P. O'BRIEN  
18 Assistant United States Attorney  
19 Chief, Criminal Division

20   
21 DOUGLAS A. AXEL  
22 RICHARD E. ROBINSON  
23 ROBERT J. MCGAHAN  
24 Assistant United States Attorneys  
25 Major Frauds Section

26 Jan. 30, 2007  
27 Date

28 I have read this agreement and carefully discussed every  
part of it with my attorney. I understand the terms of this  
agreement, and I voluntarily agree to those terms. My attorney  
has advised me of my rights, of possible defenses, of the  
Sentencing Guideline provisions, and of the consequences of  
entering into this agreement. No promises or inducements have

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1 been made to me other than those contained in this agreement. No  
2 one has threatened or forced me in any way to enter into this  
3 agreement. Finally, I am satisfied with the representation of my  
4 attorney in this matter.

5   
6 STEVEN G. COOPERMAN  
7 Defendant

Jan 30 - 2007  
Date

8  
9 I am STEVEN G. COOPERMAN's attorney. I have carefully  
10 discussed every part of this agreement with my client. Further,  
11 I have fully advised my client of his rights, of possible  
12 defenses, of the Sentencing Guideline provisions, and of the  
13 consequences of entering into this agreement. To my knowledge,  
14 my client's decision to enter into this agreement is an informed  
15 and voluntary one.

16   
17 RUSSELL GIOIELLA, ESQ.

1/30/07  
Date

18 Counsel for Defendant  
19 STEVEN G. COOPERMAN  
20  
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22  
23  
24  
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28

**EXHIBIT A**

UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, ) CR 06- \_\_\_\_\_  
 )  
 Plaintiff, ) F I R S T  
 )  
 v. ) S U P E R S E D I N G  
 )  
 STEVEN G. COOPERMAN, ) I N F O R M A T I O N  
 )  
 Defendant. ) [18 U.S.C. § 371: Conspiracy]

DAA:RER:RJM

1 The United States Attorney charges:

2 **INTRODUCTORY ALLEGATIONS**

3 **I. DEFENDANT COOPERMAN AND OTHER RELEVANT PARTIES**

4 1. Defendant STEVEN G. COOPERMAN ("COOPERMAN") is a former  
5 ophthalmologist whose primary residence was in Brentwood,  
6 California and, beginning in 1993, Fairfield, Connecticut.

7 During the time relevant to this Indictment, COOPERMAN was an  
8 active purchaser and seller of publicly-traded stocks.

9 2. At all times relevant to this Indictment, the law firm  
10 Milberg Weiss Bershad & Schulman LLP, formerly known as "Milberg  
11 Weiss Bershad Hynes & Lerach LLP" and "Milberg Weiss Bershad  
12 Specthrie & Lerach" ("Milberg Weiss"), was a New York law firm  
13 partnership with principal offices in New York, New York, and  
14 San Diego, California. At all times relevant to this Indictment,  
15 Milberg Weiss represented plaintiffs in class actions and  
16 shareholder derivative actions in federal and state courts  
17 throughout the United States, including in the Central District  
18 of California.

19 3. At all times relevant to this Indictment, Richard R.  
20 Purtich ("Purtich") was an attorney with an office in the  
21 Century City area of Los Angeles, California, whose law practice  
22 emphasized business, real estate, and insurance litigation.  
23 Purtich did not practice in the areas of plaintiffs' class action  
24 litigation or shareholder derivative litigation involving  
25 publicly traded companies. During the times relevant to this  
26 Indictment, Purtich and the law firms with which he was  
27 associated represented defendant COOPERMAN in a variety of  
28 matters, including civil litigation concerning COOPERMAN's claims

1 to income disability insurance benefit payments from Paul Revere  
2 Insurance Co. (the "Paul Revere matter"), COOPERMAN's sale of his  
3 medical practice (the "Medical Practice Sale matter"), and  
4 COOPERMAN's insurance loss claim based on the alleged theft of  
5 artwork from COOPERMAN's home in 1992 and related matters (the  
6 "Art Claim matter").

7 4. At all times relevant to this Indictment, James P.  
8 Tierney ("Tierney") was an attorney with offices in Santa Monica,  
9 California. Tierney did not practice in the areas of plaintiffs'  
10 class action litigation or shareholder derivative litigation  
11 involving publicly traded companies. In or about 1992, defendant  
12 COOPERMAN and Tierney staged a phony theft of two paintings --  
13 Monet's "Officer's Cabin at Pourville" and Picasso's "Nude Before  
14 a Mirror" (also known as "Reclining Nude") -- from COOPERMAN's  
15 home in Brentwood, California. Defendant COOPERMAN and Tierney  
16 staged the "theft" of COOPERMAN's paintings (unbeknownst to  
17 Purtich) so that COOPERMAN could fraudulently obtain compensation  
18 for the allegedly stolen paintings from the insurers in the  
19 Art Claim matter.

20 5. At all times relevant to this Indictment, "Partner A,"  
21 "Partner B," and David J. Bershad ("Bershad") were senior  
22 partners in Milberg Weiss. Steven G. Schulman ("Schulman")  
23 became a non-equity partner in Milberg Weiss on or about  
24 January 1, 1989, and became an equity partner in Milberg Weiss on  
25 or about January 1, 1991.

26 6. During the time relevant to this Indictment, "Cooperman  
27 Plaintiff 1" and "Cooperman Plaintiff 2" were doctors who were  
28 friends of defendant COOPERMAN.



1       7. During the time relevant to this Indictment, "Cooperman  
2 Brother-in-Law A" and "Cooperman Brother-in-Law B" were two  
3 brothers-in-law of defendant COOPERMAN.

4 **II. CLASS ACTIONS AND SHAREHOLDER DERIVATIVE ACTIONS**

5 **A. Overview**

6       8. The term "class action" refers to a certain type of  
7 civil lawsuit in which a court authorizes a named plaintiff to  
8 represent and litigate claims on behalf of unnamed class members  
9 who are not actually before the court (referred to as "absent  
10 class members").

11       9. Class actions often are brought to address allegations  
12 of fraud; breaches of certain legal duties of fidelity, trust,  
13 and loyalty (known as "fiduciary duties"); and other financial  
14 wrongdoing affecting publicly traded companies. In some such  
15 cases, referred to as "securities fraud class actions," a named  
16 plaintiff alleges that his or her investment in such a company  
17 was harmed by wrongdoing committed by company executives and  
18 others, and seeks to obtain money and other relief on behalf of a  
19 class of investors in that company who are alleged to have been  
20 similarly harmed.

21       10. Class actions also often are brought to address  
22 allegations that a consumer product or service was defective,  
23 deceptively represented, or illegally priced. In such cases  
24 (referred to as "consumer class actions"), a named plaintiff  
25 alleges that he or she was injured or defrauded by the  
26 manufacturers or sellers of the product or service, and seeks to  
27 obtain money and other relief on behalf of a class of consumers  
28 who are alleged to have been similarly harmed.

1        11. A judgment in a class action (whether the result of a  
2 trial or a settlement) typically binds absent class members who  
3 do not expressly notify the court that they wish to "opt out" of  
4 the litigation.

5        12. The term "shareholder derivative action" refers to a  
6 certain type of civil lawsuit in which a named plaintiff, who is  
7 a shareholder in a corporation, is authorized by a court to  
8 represent the interests of other shareholders of the corporation,  
9 as well as the corporation itself, in seeking the adjudication of  
10 rights and obligations of the corporation. As in a class action,  
11 a judgment in a shareholder derivative action typically binds  
12 unnamed shareholders who are not before the court.

13        13. When a controlling shareholder in a corporation  
14 attempts to acquire the publicly held shares in that corporation,  
15 a certain type of class action and/or shareholder derivative  
16 action, referred to as a "transaction case," may be brought. In  
17 such a case, a named plaintiff, who owns a minority of the shares  
18 in the corporation, alleges on behalf of a class of shareholders  
19 that the price per share offered by the controlling shareholder  
20 to acquire the remaining shares is too low, and does not  
21 represent the fair value of the publicly held shares.

22        14. Class actions and shareholder derivative actions are  
23 begun by the filing of a complaint in federal or state court, in  
24 which a named plaintiff alleges, among other things, the nature  
25 of the claims against the defendants in the action, the reasons  
26 why the action should be maintained as a class action or  
27 shareholder derivative action, and the reasons why the court  
28 should authorize the named plaintiff and his or her attorneys to

1 represent the interests of absent class members or shareholders  
2 in the action.

3 15. Before a judgment in a class action or shareholder  
4 derivative action may bind absent class members or shareholders,  
5 a named plaintiff and the attorneys who seek to represent absent  
6 class members or shareholders have to demonstrate to the court's  
7 satisfaction, among other things, that: (a) the named plaintiff's  
8 claims are "typical" of the claims of the absent class members or  
9 shareholders; (b) the named plaintiff has no interest in the  
10 outcome of the action that is antagonistic to, or in conflict  
11 with, the interests of the absent class members or shareholders;  
12 (c) the named plaintiff is not subject to unique defenses that  
13 could become the focus of the litigation to the detriment of the  
14 absent class members or shareholders; and (d) the named  
15 plaintiff's attorneys will be able to fairly and adequately  
16 represent the interests of the absent class members or  
17 shareholders.

18 16. The court's determination that a lawsuit may proceed  
19 as a class action or shareholder derivative action is referred to  
20 as the "certification" of the action.

21 **B. Benefits of Securing "Lead Counsel" Status**

22 17. In many class actions and shareholder derivative  
23 actions, more than one named plaintiff and more than one lawyer  
24 or law firm seek to represent, and are approved by the court to  
25 represent, the interests of absent class members or shareholders.  
26 In such cases, the lawyers and law firms often compete to be  
27 appointed by the court as "lead counsel" or "co-lead counsel" for  
28 the absent class members or shareholders. A lawyer or law firm

1 that is appointed as lead or co-lead counsel typically has power  
2 and responsibility, among other things, to: (a) coordinate the  
3 overall litigation strategy; (b) assign the work to be done on  
4 the case among lawyers and law firms who have been approved to  
5 represent the class members or shareholders; and (c) in some  
6 cases, determine the division of attorneys' fees awarded by the  
7 court among the lawyers and law firms who have worked on the  
8 case.

9 **C. Fiduciary Duties of Named Plaintiffs and**  
10 **Their Attorneys**

11 18. Because the conduct and decisions of a named plaintiff  
12 in a class action or shareholder derivative action affect the  
13 interests and rights of class members or shareholders who are not  
14 before the court, the named plaintiff owes these absent class  
15 members or shareholders certain fiduciary duties. As a result of  
16 these legally imposed duties, a named plaintiff, among other  
17 things: (a) may not place his or her own interests above those of  
18 absent class members or shareholders; (b) may not act in a  
19 deceitful or unethical manner toward the court or the absent  
20 class members or shareholders; and (c) is required to disclose to  
21 the court any fact that reasonably could affect his or her  
22 ability to fairly or adequately represent the interests of the  
23 absent class members or shareholders.

24 19. The named plaintiff's attorneys in a class action or  
25 shareholder derivative action also owe the absent class members  
26 or shareholders fiduciary duties. As a result of these legally  
27 imposed duties, the named plaintiff's attorneys, among other  
28 things: (a) may not give preferential treatment to the interests

1 of the named plaintiff over the interests of the absent class  
2 members or shareholders; (b) may not act in a deceitful or  
3 unethical manner toward the court or the absent class members or  
4 shareholders; and (c) are required to disclose to the court any  
5 fact that reasonably could affect the attorneys' ability to  
6 fairly or adequately represent the interests of the absent class  
7 members or shareholders.

8 **D. Court Approval of Settlements and Awards of**  
9 **Attorneys' Fees**

10 20. Courts presiding over class actions or shareholder  
11 derivative actions are obligated to protect the rights and  
12 interests of the absent class members or shareholders. As a  
13 result, a court is required to scrutinize any proposed settlement  
14 of a class action or shareholder derivative action, and may  
15 approve such a settlement only if the court first determines that  
16 the settlement is fair to absent class members or shareholders.

17 21. The named plaintiff's attorneys in class actions often  
18 seek to obtain their attorneys' fees from the recovery obtained  
19 for the class in the lawsuit; in shareholder derivative actions  
20 they often seek to obtain their attorneys' fees from the  
21 corporation. The attorneys' fees in such instances are paid,  
22 directly or indirectly, from proceeds that otherwise would be  
23 available to the absent class members or shareholders. Courts  
24 presiding over class actions or shareholder derivative actions  
25 are obligated, on behalf of the absent class members or  
26 shareholders, to scrutinize any request for attorneys' fees to  
27 ensure its fairness and reasonableness. Consistent with their  
28 fiduciary duties, the named plaintiff's attorneys are required,

1 as part of any request for attorneys' fees, to disclose to the  
2 court all facts that reasonably could bear on their entitlement  
3 to the requested fees.

4 **E. Limitations on Compensation of Named Plaintiffs**

5 22. The compensation that may be paid to a named plaintiff  
6 in a class action or shareholder derivative action is limited to  
7 the following: (a) the named plaintiff's pro rata share of the  
8 recovery obtained in the lawsuit, calculated on the same basis as  
9 the pro rata shares available to all of the absent class members  
10 or shareholders; and (b) his or her reasonable costs and expenses  
11 incurred in connection with the lawsuit, as approved by the  
12 court. Additionally, in some circumstances, the court presiding  
13 over such a lawsuit may award a modest bonus payment to the named  
14 plaintiff, in recognition of his or her effort in obtaining a  
15 beneficial result for the absent class members or shareholders.  
16 Such a bonus payment may be awarded only if it is first disclosed  
17 to absent class members or shareholders, and only after the  
18 absent class members or shareholders have an opportunity to  
19 object to the bonus award.

20 23. Because a named plaintiff acts as a fiduciary toward  
21 absent class members or shareholders and is required to remain  
22 free of any conflict of interest toward them, the named plaintiff  
23 may not have any financial interest in the outcome of a class  
24 action or shareholder derivative action lawsuit other than those  
25 described above.

26  
27  
28

1 **III. MILBERG WEISS'S SECRET AND ILLEGAL KICKBACK ARRANGEMENT WITH**  
2 **DEFENDANT COOPERMAN**

3 24. During the time relevant to this Indictment,  
4 Milberg Weiss brought numerous class actions and shareholder  
5 derivative actions against publicly traded companies and other  
6 major businesses. These lawsuits generated substantial  
7 attorneys' fees for Milberg Weiss. To bring these lawsuits,  
8 Milberg Weiss needed persons who would agree to serve as named  
9 plaintiffs, and whom the courts would likely approve to represent  
10 absent class members or shareholders.

11 25. Among the persons serving as named plaintiffs for  
12 Milberg Weiss were defendant COOPERMAN and certain of his  
13 relatives and associates, including Cooperman Plaintiff 1 and  
14 Cooperman Plaintiff 2. Between in or about 1988 and continuing  
15 until at least 1999, these individuals served as named plaintiffs  
16 in approximately seventy class actions and shareholder derivative  
17 actions brought by Milberg Weiss in federal and state courts  
18 throughout the United States, including in the Central District  
19 of California. The class actions and shareholder derivative  
20 actions in which COOPERMAN, his spouse, Cooperman Plaintiff 1,  
21 and Cooperman Plaintiff 2 (collectively the "COOPERMAN  
22 Plaintiffs") served as named plaintiffs for Milberg Weiss are  
23 referred to herein as the "Lawsuits."

24 26. Beginning at least as early as in or about 1988 and  
25 continuing through at least 1997, in order to facilitate the  
26 recruitment of defendant COOPERMAN and his relatives and  
27 associates to serve as named plaintiffs, Milberg Weiss,  
28 Partner A, Partner B, Bershad, and others agreed to and secretly



1 did pay, as illegal kickbacks to COOPERMAN, a substantial portion  
2 of the attorneys' fees Milberg Weiss obtained in the lawsuits in  
3 which COOPERMAN or one of his associates or relatives served as a  
4 named plaintiff, as well as other lawsuits in which COOPERMAN  
5 provided information for use by Milberg Weiss. Kickbacks  
6 COOPERMAN received in connection with Lawsuits in which Cooperman  
7 Plaintiff 1 or Cooperman Plaintiff 2 served as a named plaintiff  
8 were shared with Cooperman Plaintiff 1 and Cooperman Plaintiff 2,  
9 respectively.

10 27. During the times relevant to this Indictment,  
11 Milberg Weiss's kickback arrangement with and kickback payments  
12 to defendant COOPERMAN were illegal and improper for the  
13 following reasons, among others: (a) under applicable New York  
14 law, it is a criminal offense for an attorney to promise or give  
15 anything of value to induce a person to bring a lawsuit, or to  
16 reward a person for having done so; (b) under applicable New York  
17 law, it is a criminal offense to pay a fiduciary, without the  
18 consent of those to whom he or she owes fiduciary duties, with  
19 the intent to influence his or her conduct as a fiduciary;  
20 and (c) under applicable New York and California laws, lawyers  
21 may not share attorneys' fees with persons who are not duly  
22 licensed to practice law. Additionally, the kickback  
23 arrangements created a conflict of interest between the  
24 COOPERMAN Plaintiffs and those to whom they owed fiduciary duties  
25 because, as a result of the kickback arrangements, the  
26 COOPERMAN Plaintiffs had a greater interest in maximizing the  
27 amount of attorneys' fees awarded to Milberg Weiss than in  
28 maximizing the net recovery to the absent class members and



1 shareholders.

2       28. To conceal their illegal kickback arrangement from the  
3 courts presiding over the Lawsuits, the other parties to the  
4 Lawsuits, and the absent class members and shareholders whose  
5 interests they purported to represent in the Lawsuits, defendant  
6 COOPERMAN, Milberg Weiss, Partner A, Partner B, Bershad,  
7 Schulman, Cooperman Plaintiff 1, Cooperman Plaintiff 2, and  
8 others engaged in various fraudulent and deceptive acts,  
9 practices, and devices. Among other things, COOPERMAN,  
10 Milberg Weiss, Partner A, Partner B, Bershad, Schulman, Cooperman  
11 Plaintiff 1, Cooperman Plaintiff 2, and others made and caused  
12 others to make false and misleading statements, and omitted and  
13 caused others to omit material facts, in complaints, motions,  
14 certifications, declarations, and other documents filed in the  
15 Lawsuits, and in depositions and other discovery of COOPERMAN,  
16 Cooperman Plaintiff 1, and Cooperman Plaintiff 2 taken in the  
17 Lawsuits. Additionally, Milberg Weiss, Partner A, Partner B,  
18 Bershad, Schulman, and others concealed and disguised the illegal  
19 kickbacks by, among other things, paying the kickbacks in cash  
20 and through Purtich, Tierney, and Cooperman Brother-in-Law B, who  
21 then used and disbursed the payments at the direction of  
22 defendant COOPERMAN, and for his benefit.

23       29. The concealment of the secret and illegal kickback  
24 arrangement and payments from the courts presiding over the  
25 Lawsuits influenced, obstructed, and impeded the ability of such  
26 courts to assess and determine: (a) the appropriateness of  
27 approving the Lawsuits to proceed as class actions or shareholder  
28 derivative actions; (b) the ability of the COOPERMAN Plaintiffs

1 to fairly and adequately represent the interests of the absent  
2 class members or shareholders; (c) the ability of Milberg Weiss  
3 and its lawyers to fairly and adequately represent the interests  
4 of the absent class members or shareholders; (d) the fairness of  
5 settlements proposed by Milberg Weiss and the COOPERMAN  
6 Plaintiffs in the Lawsuits; and (e) whether and the extent to  
7 which Milberg Weiss should be awarded the attorneys' fees it  
8 sought in the Lawsuits.

9 **IV. SUMMARY OF KICKBACK PAYMENTS TO DEFENDANT COOPERMAN**

10 30. As a result of this illegal and fraudulent scheme,  
11 between in or about 1989 and in or about 2003, Milberg Weiss  
12 obtained more than \$133 million in attorneys' fees in the  
13 Lawsuits. During this period, Milberg Weiss made approximately  
14 \$6.4 million in secret and illegal kickback payments for the  
15 benefit of defendant COOPERMAN, Cooperman Plaintiff 1, and  
16 Cooperman Plaintiff 2.

17 31. Between in or about January 1989 and February 1991,  
18 defendant COOPERMAN and Cooperman Plaintiff 1 received kickbacks  
19 of at least \$175,000 for serving as named plaintiffs in the  
20 shareholder derivative action brought by Milberg Weiss referred  
21 to as Newhall Land, which were paid to COOPERMAN through a  
22 combination of a phony art option payment by Partner A to  
23 COOPERMAN and phony "retainer" payments by Milberg Weiss that  
24 Bershad provided to Cooperman Brother-in-Law B.

25 32. Defendant COOPERMAN and Cooperman Plaintiff 1 also  
26 received kickbacks valued at \$86,000 in connection with five  
27 additional Milberg Weiss cases that settled prior to 1991, which  
28 were paid to COOPERMAN through a combination of a \$16,000 cash

1 payment delivered by Partner B directly to COOPERMAN, a bogus  
 2 "consultation" fee that Partner B and Bershad caused Milberg  
 3 Weiss to pay to Tierney, and bogus "retainer" payments by Milberg  
 4 Weiss that Bershad provided to Cooperman Brother-in-Law B.

5 33. In addition, defendant COOPERMAN received kickback  
 6 payments from Milberg Weiss in the form of Milberg Weiss checks,  
 7 in the following amounts, signed by Bershad, issued to Tierney  
 8 and Purtich, which were associated by Bershad in accompanying  
 9 cover letters with the lawsuits identified below and procedurally  
 10 related lawsuits:

Common Case Name, Case Number, and Court	Named Plaintiff(s)	Date of Kickback	Approximate Kickback
<u>Cetus</u> , No. C-90-2042 (United States District Court, Northern District of California)	Cooperman	11/20/91	\$ 178,507
<u>Cineplex Odeon</u> , No. CV 89- 2579 (United States District Court, Central District of California)	Cooperman	01/08/92	\$ 21,376
<u>Jan Bell Marketing</u> , No. CV 90-6183 (United States District Court, Southern District of Florida)	Cooperman	07/21/92	\$ 19,363
<u>American Continental/ Lincoln Savings</u> , No. CV 89- 2448 (United States District Court, Central District of California)	Cooperman Plaintiff 1	10/21/92	\$ 440,000
		07/19/93	\$ 250,000
		11/09/94	\$ 160,000
		12/21/95	\$ 163,000
<u>Software Toolworks</u> , No. C- 90-2920 (United States District Court, Northern District of California)	Cooperman	12/16/92	\$ 317,885
		01/15/93	\$ 30,605

Common Case Name, Case Number, and Court	Named Plaintiff(s)	Date of Kickback	Approximate Kickback
<u>LA Gear</u> , No. CV 90-2832 (United States District Court, Central District of California)	Cooperman	01/29/93	\$ 50,000
		05/18/93	\$ 160,000
		07/19/93	\$ 7,476
<u>Prime Motor Inns</u> , No. 90-99 (United States District Court, District of New Jersey)	Cooperman	03/12/93	\$ 200,286
<u>Sun Microsystems</u> , No. C-93- 20292 (United States District Court, Northern District of California)	Cooperman	08/16/93	\$ 99,887
<u>One Bancorp</u> , Civil No. 89- 0315 (United States District Court, District of Maine)	Cooperman	08/16/93	\$ 39,332
<u>Epitope</u> , Civ. No. 92-780 (United States District Court, District of Oregon)	Cooperman	08/16/93	\$ 3,849
<u>Fairfield Communities</u> , No. C-90-464 (United States District Court, Eastern District of Arkansas)	Cooperman	08/16/93	\$ 24,996
<u>Shawmut</u> , No. H-90-253 (United States District Court, District of Connecticut)	Cooperman	08/16/93	\$ 13,436
<u>Valley National</u> , No. Civ. 89-1733 (United States District Court, District of Arizona)	Cooperman	03/01/94	\$ 17,458
<u>First Executive</u> , No. 89- 7135 (United States District Court, Central District of California)	Cooperman	03/11/94	\$ 763,997
		05/27/94	\$ 211,000
		05/27/94	\$ 100,000
		02/15/95	\$ 100,000
		12/21/95	\$ 200,000
		12/21/95	\$ 140,000
		04/04/96	\$ 150,000

Common Case Name, Case Number, and Court	Named Plaintiff(s)	Date of Kickback	Approximate Kickback
<u>Columbia Savings &amp; Loan</u> , No. CV 89-6538 (United States District Court, Central District of California)	Cooperman	03/31/94	\$ 200,000
		04/29/94	\$ 112,495
		07/27/94	\$ 200,000
		08/04/94	\$ 250,000
		09/22/94	\$ 191,278
		03/30/95	\$ 79,000
		03/30/95	\$ 79,000
<u>U.S. Bioscience</u> , No. CV 92- 0743 (United States District Court, Eastern District of Pennsylvania)	associate of Cooperman	09/22/94	\$ 2,700
<u>Abbott Laboratories</u> , Civ. No. 632601 (San Diego County, California, Superior Court) (aka "Infant Formula")	Cooperman	07/07/95	\$ 25,868
<u>T2 Medical</u> , No. CV 94-1584 (United States District Court, Northern District of Georgia)	one of Cooperman's brothers-in- law ("Cooperman Brother-in- Law A")	07/07/95	\$ 6,433
<u>Fidelity Medical</u> , No. 92- 1913 (United States District Court, District of New Jersey)	Cooperman's wife	07/07/95	\$ 22,207
<u>SCI-TV</u> , No. BC100359 (Los Angeles County, California, Superior Court)	Cooperman	11/01/95	\$ 100,000
		11/16/95	\$ 81,846
		11/16/95	\$ 100,000
		12/01/95	\$ 40,000
		12/01/95	\$ 40,000
<u>Community Psychiatric</u> , No. 91-5258 (United States District Court, Central District of California)	Cooperman	03/07/96	\$ 180,140

1        34. Defendant COOPERMAN also received kickback payments  
2 from Milberg Weiss in the form of Milberg Weiss checks, signed by  
3 Bershad, issued to Tierney and Purtich with respect to the  
4 following lawsuits in which Milberg Weiss "recognized" COOPERMAN  
5 for supplying useful information:

- 6        a. ADAC: \$36,666.70 paid 5/12/92;  
7        b. Sunrise Technology: \$12,800 paid 9/22/94;  
8        c. Optical Radiation: \$19,017 paid 11/07/94; and  
9        d. Figgie: \$55,635 paid 7/31/96

10       35. In addition, between November 1996 and May 1997, at  
11 defendant COOPERMAN's direction, Milberg Weiss and Bershad sent  
12 to COOPERMAN four Milberg Weiss kickback checks totaling  
13 \$281,871, issued payable to Tierney and Purtich, with respect to  
14 COOPERMAN's serving as named plaintiff in Community Psychiatric  
15 and Software Toolworks, and Cooperman Plaintiff 2's serving as  
16 named plaintiff in Heart Technology, which checks COOPERMAN then  
17 deposited into his own bank account.

COUNT ONE

[18 U.S.C. § 371]

[Conspiracy]

36. The United States Attorney hereby repeats and realleges paragraphs 1 through 35 of this Indictment.

**I. THE OBJECTS OF THE CONSPIRACY**

37. Beginning in or about April 1988, and continuing until at least 1999, within the Central District of California and elsewhere, defendant COOPERMAN, Milberg Weiss, Partner A, Partner B, Bershad, Schulman, and other persons known and unknown to the United States Attorney, knowingly combined, conspired, and agreed to commit the following offenses against the United States:

a. to commit obstruction of justice by corruptly influencing, obstructing, and impeding, and endeavoring to influence, obstruct, and impede, the due administration of justice in the Lawsuits filed and litigated in federal courts, in violation of Title 18, United States Code, Section 1503; and

b. to make false material declarations under oath in proceedings before and ancillary to courts of the United States, in connection with the Lawsuits filed and litigated in federal courts, in violation of Title 18, United States Code, Section 1623(a).

**II. THE MANNER AND MEANS OF THE CONSPIRACY**

38. The objects of the conspiracy were carried out, in part, in the manner and by the means described below.

39. Milberg Weiss, Partner A, Partner B, Bershad, Schulman, and others arranged for defendant COOPERMAN to serve, and to

1 cause certain of his relatives and associates to serve, as named  
2 plaintiffs in class actions and shareholder derivative actions in  
3 which Milberg Weiss served as counsel.

4 40. As an inducement to defendant COOPERMAN to serve, and  
5 to induce COOPERMAN to cause his relatives and associates to  
6 serve, as named plaintiffs, Milberg Weiss, Partner A, Partner B,  
7 Bershad, and others offered, promised, and agreed secretly to pay  
8 COOPERMAN kickbacks consisting of a portion of the attorneys'  
9 fees that Milberg Weiss expected to obtain in each lawsuit in  
10 which COOPERMAN served, or caused a relative or associate to  
11 serve, as a named plaintiff, or for which COOPERMAN provided  
12 useful information to Milberg Weiss.

13 41. In the Lawsuits in which Cooperman Plaintiff 1 or  
14 Cooperman Plaintiff 2 served as a named plaintiff, defendant  
15 COOPERMAN agreed to and did share the kickbacks he received from  
16 Milberg Weiss with Cooperman Plaintiff 1 or Cooperman  
17 Plaintiff 2, respectively.

18 42. In the course of the Lawsuits, defendant COOPERMAN,  
19 Milberg Weiss, Partner A, Partner B, Bershad, Schulman, Cooperman  
20 Plaintiff 1, Cooperman Plaintiff 2, and others engaged in, and  
21 caused each other to engage in, various fraudulent and deceptive  
22 acts, practices, and devices, including the following:

23 a. COOPERMAN, Milberg Weiss, Partner A, Partner B,  
24 Bershad, Schulman, Cooperman Plaintiff 1, Cooperman Plaintiff 2,  
25 and others concealed their illegal kickback arrangements from the  
26 courts presiding over, the other parties to, and the absent class  
27 members and shareholders in the Lawsuits;

28 / / /



1           b. COOPERMAN, Milberg Weiss, Partner A, Partner B,  
2     Bershad, Schulman, and others made and caused to be made false  
3     and misleading representations in: (i) complaints to initiate and  
4     maintain the Lawsuits; (ii) motions seeking court approval for  
5     the Lawsuits to proceed as class actions or shareholder  
6     derivative actions; and (iii) motions seeking court approval of  
7     Milberg Weiss and the COOPERMAN Plaintiffs to represent absent  
8     class members or shareholders in the Lawsuits. Specifically,  
9     they caused to be represented in these pleadings that the  
10    COOPERMAN Plaintiffs had no interest in conflict with, or  
11    antagonistic to, absent class members or shareholders in the  
12    Lawsuits, and that Milberg Weiss and the COOPERMAN Plaintiffs  
13    would fairly and adequately represent their interests. In truth  
14    and in fact, as defendant COOPERMAN, Milberg Weiss, Partner A,  
15    Partner B, Bershad, Schulman, Cooperman Plaintiff 1, and  
16    Cooperman Plaintiff 2 well knew, the interests of the COOPERMAN  
17    Plaintiffs conflicted with those of absent class members or  
18    shareholders because, as a result of their secret and illegal  
19    kickback arrangements, they had a greater interest in maximizing  
20    the amount of attorneys' fees awarded to Milberg Weiss than in  
21    maximizing the net recovery to the absent class members or  
22    shareholders. Additionally, as a result of the secret and  
23    illegal kickback arrangements, Milberg Weiss improperly favored  
24    the financial interests of the COOPERMAN Plaintiffs over the  
25    interests of the absent class members or shareholders;

26           c. In under-oath testimony given in connection with  
27    the Lawsuits and in written certifications, declarations, and  
28    other documents signed under penalty of perjury in the Lawsuits,

1 COOPERMAN, Cooperman Plaintiff 1, and Cooperman Plaintiff 2,  
2 acting in concert with Milberg Weiss and others, falsely denied  
3 that they had ever received, or expected to receive, any payment  
4 for serving as a named plaintiff other than their pro rata share  
5 of the recovery based on the same terms as the pro rata shares  
6 available to all of the absent class members or shareholders. In  
7 truth and in fact, as they well knew, in return for serving as  
8 named plaintiffs, COOPERMAN, Cooperman Plaintiff 1, and Cooperman  
9 Plaintiff 2 had received and expected to receive from  
10 Milberg Weiss kickback payments that substantially exceeded any  
11 pro rata share of the recovery they received, or could expect to  
12 receive, based on the terms used to determine the pro rata shares  
13 available to all of the absent class members or shareholders in  
14 the Lawsuits;

15 d. COOPERMAN, Milberg Weiss, and others caused the  
16 Lawsuits to be settled in a manner that often would generate  
17 substantial attorneys' fees for Milberg Weiss, while concealing  
18 from the courts approving these settlements, and from the absent  
19 class members or shareholders on whose behalf the settlements  
20 were being negotiated, their secret and illegal kickback  
21 arrangement; and

22 e. Milberg Weiss, COOPERMAN, Partner A, Partner B,  
23 Bershad, Schulman, and others caused to be filed motions in the  
24 Lawsuits seeking the awards of attorneys' fees to Milberg Weiss,  
25 in which they concealed from the courts awarding attorneys' fees,  
26 and the absent class members or shareholders, their illegal  
27 kickback arrangements under which the awarded attorneys' fees  
28 secretly would be shared with COOPERMAN, Cooperman Plaintiff 1,

1 and Cooperman Plaintiff 2.

2 43. In the course of certain of the securities fraud class  
3 action Lawsuits, defendant COOPERMAN, Milberg Weiss, Partner A,  
4 Partner B, Bershad, Schulman, Cooperman Plaintiff 1, Cooperman  
5 Plaintiff 2, and others engaged in, and caused each other to  
6 engage in, additional fraudulent and deceptive acts, practices,  
7 and devices, including the following:

8 a. Milberg Weiss, Partner B, Bershad, Schulman, and  
9 others falsely represented and caused to be falsely represented  
10 in complaints and other pleadings filed in such Lawsuits that the  
11 plaintiffs' claims were typical of the claims of the members of  
12 the class and that the plaintiffs relied on the allegedly false  
13 and misleading statements made by the defendants in the Lawsuits  
14 when purchasing the securities at issue in the Lawsuits. In  
15 truth and in fact, as Milberg Weiss, Partner B, Bershad, Schulman  
16 and others well knew, the plaintiffs' claims in such Lawsuits  
17 were not typical of the claims of the class members. Unlike the  
18 other class members in the Lawsuits, COOPERMAN, COOPERMAN  
19 Plaintiff 1, and COOPERMAN Plaintiff 2 purchased the securities  
20 at issue anticipating that the securities would decline in value,  
21 in order to position themselves to be named plaintiffs in  
22 securities fraud class actions and to obtain kickback payments  
23 from Milberg Weiss and others; and

24 b. In under-oath testimony given in connection with  
25 such Lawsuits and in written certifications, declarations, and  
26 other documents signed under penalty of perjury in such Lawsuits,  
27 defendant COOPERMAN, Cooperman Plaintiff 1, and Cooperman  
28 Plaintiff 2, acting in concert with Milberg Weiss, Partner A,

1 Partner B, Bershad, Schulman, and others, falsely denied that  
2 they purchased the securities at issue in the Lawsuits in order  
3 to be named plaintiffs. In truth and in fact, as they well knew,  
4 defendant COOPERMAN, Cooperman Plaintiff 1, and Cooperman  
5 Plaintiff 2 purchased the securities at issue in order to  
6 position themselves to be named plaintiffs in securities fraud  
7 class actions and to obtain kickback payments from Milberg Weiss  
8 and others.

9 44. After the court in a Lawsuit awarded attorneys' fees,  
10 or was expected to award attorneys' fees, defendant COOPERMAN,  
11 Milberg Weiss, Partner A, Partner B, Bershad, and others arranged  
12 for the secret and illegal kickbacks to be paid to COOPERMAN. To  
13 conceal and disguise these kickback payments, among other things:

14 a. Milberg Weiss and Partner B made a kickback  
15 payment in cash given directly to defendant COOPERMAN;

16 b. Milberg Weiss, Partner A, and Partner B caused a  
17 kickback payment to be paid by personal check from Partner A to  
18 COOPERMAN, disguised as a phony "option payment" by Partner A on  
19 COOPERMAN's painting by Picasso, entitled "Nude Before a Mirror"  
20 and also known as "Reclining Nude"; and

21 c. Milberg Weiss, Partner B, Bershad, and others made  
22 and caused kickback payments to be made by Milberg Weiss checks  
23 payable to Purtich, Tierney, and Cooperman Brother-in-Law B, who  
24 then used and disbursed the payments at the direction, and for  
25 the benefit, of defendant COOPERMAN.

26 45. To further conceal and disguise the kickbacks paid by  
27 Milberg Weiss checks made payable to Tierney, Purtich, and  
28 Cooperman Brother-in-Law B (each a "Cooperman Intermediary"):

1           a.     Milberg Weiss, Bershad, and others caused such  
2 payments to be falsely characterized in Milberg Weiss's  
3 accounting books and records as, among other things, referral  
4 fees, professional fees, and "fees to others" paid to a Cooperman  
5 Intermediary;

6           b.     Milberg Weiss, Partner B, Bershad, and others  
7 falsely characterized Milberg Weiss payments to Tierney and  
8 Purtich as, among other things: the intermediary lawyer's  
9 "entitlement" in accordance with their "prior understandings" in  
10 a Lawsuit; his payment for work and responsibility "assumed" in a  
11 Lawsuit; his "share" of attorneys' fees in a Lawsuit; his  
12 "participation" or "interest" in Milberg Weiss's fee award in a  
13 Lawsuit; his "portion" of the fees awarded to all plaintiffs'  
14 counsel in a Lawsuit; his compensation for "work and  
15 responsibility" in a Lawsuit; his "agreed upon 5% share" of "our  
16 joint fees" in a Lawsuit; his "participation" in Milberg Weiss's  
17 fees as a result of his "referring and other contributions"  
18 towards a Lawsuit; and payments of Milberg Weiss's obligations to  
19 him with regard to "referring Steven Cooperman" with regard to a  
20 Lawsuit;

21           c.     Milberg Weiss, Bershad, and others falsely  
22 characterized payments to Cooperman Brother-in-Law B in  
23 accompanying cover letters as his "retainers" with regard to  
24 specified Milberg Weiss cases; and

25           d.     Milberg Weiss, Bershad, and others issued and  
26 caused to be issued IRS Forms 1099-MISC to Tierney, Purtich and  
27 Purtich's associated law firms, which made it appear as if such  
28 payments were fees for their benefit rather than for the benefit

1 of COOPERMAN.

2 46. After the Cooperman Intermediaries received kickback  
3 payments from Milberg Weiss, defendant COOPERMAN directed the  
4 Cooperman Intermediaries to use and apply such kickback payments  
5 for the benefit of defendant COOPERMAN including, among other  
6 things:

7 a. to make payments directly to COOPERMAN or a  
8 company owned and controlled by COOPERMAN;

9 b. in the case of Purtich, to satisfy legal fees or  
10 expenses that COOPERMAN owed or would owe to Purtich and his  
11 associated law firms, including fees COOPERMAN owed in connection  
12 with the Paul Revere matter, the Medical Practice Sale matter,  
13 and the Art Claim matter; and

14 c. in the case of Tierney, to compensate him for  
15 staging the phony "theft" of COOPERMAN's paintings.

16 **III. OVERT ACTS**

17 47. In furtherance of the conspiracy and to accomplish its  
18 objects, defendant COOPERMAN, together with Milberg Weiss,  
19 Partner A, Partner B, Bershad, Schulman, Cooperman Plaintiff 1,  
20 Cooperman Plaintiff 2, and others known and unknown to the  
21 United States Attorney, committed and caused others to commit the  
22 following overt acts, among others, in the Central District of  
23 California and elsewhere, in connection with the following  
24 Lawsuits:

25 **A. Newhall Land**

26 Overt Act No. 1: On or about April 19, 1988, defendant  
27 COOPERMAN, Milberg Weiss, Partner B, and others caused to be  
28 filed a verified derivative and class action complaint in Newhall

1 Land, naming COOPERMAN and Cooperman Plaintiff 1 as plaintiffs.

2 Overt Act No. 2: On or about November 15, 1988,  
3 defendant COOPERMAN signed under penalty of perjury a declaration  
4 in support of plaintiffs' application for approval of a  
5 settlement in Newhall Land, in which he stated, "As a Unit Holder  
6 and class representative, I believe the [attorneys'] fee sought  
7 is fair considering the amount of work done and the quality of  
8 the result obtained."

9 Overt Act No. 3: On or about January 18, 1989, Milberg  
10 Weiss obtained attorneys' fees of \$1,815,295 in Newhall Land.

11 Overt Act No. 4: In or about early 1989, defendant  
12 COOPERMAN and Cooperman Plaintiff 1 met with Partner B in Los  
13 Angeles, at which meeting Partner B told them that they would  
14 receive approximately 5% to 10% of Milberg Weiss's attorneys'  
15 fees in Newhall Land; that Milberg Weiss would pay COOPERMAN and  
16 Cooperman Plaintiff 1 5% to 10% of Milberg Weiss's attorneys'  
17 fees in future cases that they brought to the firm; and that  
18 COOPERMAN and Cooperman Plaintiff 1 should purchase stocks in  
19 companies, such as banks and hi-tech firms, in order to position  
20 Milberg Weiss and themselves to file class action lawsuits in the  
21 future.

22 Overt Act No. 5: In or about early January 1989,  
23 defendant COOPERMAN and Partner B met in Los Angeles and  
24 discussed different methods by which Milberg Weiss could secretly  
25 pay COOPERMAN his kickback share of the firm's attorneys' fees in  
26 Newhall Land.

27 Overt Act No. 6: On or about January 24, 1989,  
28 defendant COOPERMAN met with Partner A in Los Angeles to discuss



1 how Partner A would disguise the Newhall Land kickback payment to  
2 COOPERMAN as a refundable option payment on COOPERMAN's Picasso  
3 painting known as "Reclining Nude."

4 Overt Act No. 7: On or about January 27, 1989,  
5 defendant COOPERMAN received Partner A's personal check in the  
6 amount of \$175,000 payable to COOPERMAN, falsely described  
7 thereon as for "Refundable Option on Picasso."

8 Overt Act No. 8: Thereafter in early 1989, defendant  
9 COOPERMAN paid Cooperman Plaintiff 1 his share of the kickback  
10 proceeds that COOPERMAN had received in Newhall Land from  
11 Partner A.

12 Overt Act No. 9: In late January or early February  
13 1989, defendant COOPERMAN and Bershad had a telephone  
14 conversation during which they discussed having Milberg Weiss  
15 funnel monies to COOPERMAN through Cooperman Brother-in-Law B,  
16 disguised as phony fees for services paid by Milberg Weiss to  
17 Cooperman Brother-in-Law B, which COOPERMAN would use to  
18 reimburse himself for returning the phony \$175,000 option payment  
19 to Partner A.

20 Overt Act No. 10: On or about March 27, 1989,  
21 Milberg Weiss, Bershad, Schulman, and others caused to be sent to  
22 Cooperman Brother-in-Law B a letter signed by Schulman falsely  
23 describing Cooperman Brother-in-Law B as a "consultant" to  
24 Milberg Weiss in a case called "Liberty All-Star Equity Fund."

25 Overt Act No. 11: On or about March 29, 1989,  
26 Milberg Weiss, Bershad, and others caused to be sent to  
27 Cooperman Brother-in-Law B a \$35,000 check, with a cover letter  
28 signed by Bershad falsely describing the check as his "retainer"



1 for "Liberty Allstar."

2 Overt Act No. 12: On or about April 21, 1989,  
3 Milberg Weiss, Bershad, and others caused to be sent to  
4 Cooperman Brother-in-Law B a \$25,000 check, with a cover letter  
5 signed by Bershad falsely describing the payment as his  
6 "retainer" for a case called "Brinkmann Instruments, Inc."

7 Overt Act No. 13: On or about May 23, 1989,  
8 Milberg Weiss, Bershad, and others caused to be sent to  
9 Cooperman Brother-in-Law B a \$40,000 check, with a cover letter  
10 signed by Bershad falsely describing the payment as his  
11 "retainer" for a case called "MDC Corporation."

12 Overt Act No. 14: On or about May 26, 1989,  
13 Milberg Weiss, Bershad, and others caused to be sent to  
14 Cooperman Brother-in-Law B a \$40,000 check, with a cover letter  
15 signed by Bershad falsely describing the payment as his  
16 "retainer" for a case called "Imperial Bank."

17 Overt Act No. 15: On or about June 15, 1989, defendant  
18 COOPERMAN sent a sham letter to Partner A that purported to  
19 confirm that COOPERMAN would return Partner A's \$175,000  
20 refundable option payment to him because Partner A had decided  
21 not to purchase COOPERMAN's Picasso painting, and included  
22 COOPERMAN's check for \$65,000 to Partner A as a purported partial  
23 return of the option payment.

24 Overt Act No. 16: On or about June 19, 1989, defendant  
25 COOPERMAN caused Cooperman Brother-in-Law B to pay \$65,000 from  
26 the proceeds of the Milberg Weiss checks he had previously  
27 received to a company controlled and owned by COOPERMAN called  
28 Barrock Investment Group ("Barrock"), so that COOPERMAN could

1 reimburse himself for the funds he used to repay Partner A.

2       Overt Act No. 17: On or about June 24, 1989, defendant  
3 COOPERMAN caused Cooperman Brother-in-Law B to pay \$60,000 from  
4 the proceeds of the Milberg Weiss checks he previously received  
5 to Barrock, so that COOPERMAN could reimburse himself for the  
6 funds he used to repay Partner A.

7       Overt Act No. 18: On or about August 18, 1989,  
8 defendant COOPERMAN sent Partner A a \$35,000 check, purportedly  
9 as partial return of Partner A's art option payment.

10       Overt Act No. 19: On or about August 28, 1989,  
11 defendant COOPERMAN caused Cooperman Brother-in-Law B to pay  
12 \$10,000 to Barrock from the proceeds of the Milberg Weiss checks  
13 he had received, so that COOPERMAN could use the funds to repay  
14 Partner A.

15       Overt Act No. 20: On or about September 27, 1989,  
16 defendant COOPERMAN sent Partner A a \$25,000 check, purportedly  
17 as partial return of Partner A's art option payment.

18       Overt Act No. 21: On or about December 6, 1989,  
19 defendant COOPERMAN sent Partner B a letter that enclosed copies  
20 of the three checks, totaling \$125,000, that COOPERMAN had  
21 previously paid to Partner A in partial refund of the phony art  
22 option payment, so that Partner B could confirm how much  
23 COOPERMAN had left to repay Partner A.

24       Overt Act No. 22: On or about February 8, 1990,  
25 Milberg Weiss, Bershad, and others caused to be sent to  
26 Cooperman Brother-in-Law B a \$35,000 check, with a cover letter  
27 signed by Bershad falsely describing the payment as his  
28 "retainer" in connection with investigation of a company called

1 "Lone Star Industries."

2 Overt Act No. 23: On or about February 14, 1990,  
3 defendant COOPERMAN caused Cooperman Brother-in-Law B to pay  
4 \$35,0000 to Barrock from the proceeds of the Milberg Weiss checks  
5 he had received, so that COOPERMAN could use the funds to repay  
6 Partner A.

7 Overt Act No. 24: On or about November 15, 1990,  
8 defendant COOPERMAN sent Bershad a letter stating, "I faxed  
9 [Partner B] copies of 3 checks in 12/89 but so far have not been  
10 able to find my copy of those copies - I think he sent them on to  
11 you." COOPERMAN's letter further advised Bershad that according  
12 to COOPERMAN's check records, "after 12/89, [Partner A] sent  
13 [Cooperman Brother-in-Law B] another \$35,000, & I think I may  
14 still owe that to [Partner A]. Let me know if this all agrees  
15 with your records."

16 Overt Act No. 25: On or about February 15, 1991,  
17 defendant COOPERMAN caused Cooperman Brother-in-Law B to pay  
18 \$33,250 to Barrock from the proceeds of the Milberg Weiss checks  
19 he had received, so that COOPERMAN could reimburse himself for  
20 the funds used to repay Partner A.

21 B. Consolidated Kickback Payments re Farmers, Smithkline,  
22 Aristech, Jepson, and Georgia Gulf

23 Overt Act No. 26: On or about March 25, 1991, defendant  
24 COOPERMAN met with Partner B and discussed the amounts of  
25 attorneys' fees that Milberg Weiss had obtained in lawsuits  
26 referred to as Farmers, Smithkline, Aristech, Jepson, and Georgia  
27 Gulf, and the amount of those fees that Milberg Weiss would pay  
28 to COOPERMAN in light of an offsetting \$35,000 balance that they  
understood COOPERMAN still owed Partner A for his phony art

1 option payment to COOPERMAN.

2 Overt Act No. 27: On or about March 25, 1991, during  
3 his meeting with defendant COOPERMAN, Partner B provided \$16,000  
4 in cash to COOPERMAN in partial payment of the kickbacks owed by  
5 Milberg Weiss for COOPERMAN and Cooperman Plaintiff 1 serving as  
6 named plaintiffs in Smithkline, Aristech, Jepson, and Georgia  
7 Gulf, as well as for COOPERMAN providing inside information to  
8 Milberg Weiss for its use in Farmers (collectively, with Newhall  
9 Land, the "Pre-1991 Settled Cases").

10 Overt Act No. 28: On or about March 25, 1991, defendant  
11 COOPERMAN and Partner B caused to be sent by fax from  
12 Milberg Weiss's office to COOPERMAN's residence in Los Angeles a  
13 hand written document reflecting their discussion and agreement  
14 concerning Milberg Weiss's attorneys' fees and the amounts of the  
15 kickbacks owed to COOPERMAN for the Pre-1991 Settled Cases, which  
16 included hand written notes indicating that the kickbacks owed  
17 COOPERMAN were reduced by \$35,000 that COOPERMAN still owed  
18 Partner A; that the kickback payment obligation for Newhall Land  
19 was "Done"; that there had been "16 PAID"; and that there was  
20 \$10,000 remaining to be paid COOPERMAN and Cooperman Plaintiff 1  
21 for these cases.

22 Overt Act No. 29: On or about March 25, 1991, defendant  
23 COOPERMAN gave Cooperman Plaintiff 1 a portion of the \$16,000  
24 cash kickback payment that COOPERMAN had received from Partner B,  
25 as Cooperman Plaintiff 1's share of the kickbacks for the Pre-  
26 1991 Settled Cases.

27 Overt Act No. 30: In or about July 1991, defendant  
28 COOPERMAN discussed with Partner B that Milberg Weiss would pay

1 the balance of the kickbacks owed to COOPERMAN on the Pre-1991  
2 Settled Cases through Tierney, using fees coming in to  
3 Milberg Weiss from its shareholder lawsuit relating to Northrop.

4 Overt Act No. 31: On or about July 15, 1991, at  
5 defendant COOPERMAN's direction, Tierney sent Partner B a sham  
6 statement for \$20,000 for "Consultation" by Tierney in "Northrop  
7 Shareholder Lawsuit."

8 Overt Act No. 32: On or about August 20, 1991, at  
9 defendant COOPERMAN's direction, Milberg Weiss and Bershad issued  
10 a check for \$20,000 to Tierney, with a cover letter signed by  
11 Partner B falsely describing the check as in payment of Tierney's  
12 "invoice of July 15, 1991 relating to the Northrop Shareholder  
13 Litigation."

14 Overt Act No. 33: On or about August 22, 1991, Tierney  
15 provided a \$12,000 check to defendant COOPERMAN, falsely  
16 described by Tierney as "return of retainer," thereby providing  
17 to COOPERMAN the balance of kickback funds that Milberg Weiss  
18 owed for the Pre-1991 Settled Cases.

19 Overt Act No. 34: On or about August 30, 1991,  
20 defendant COOPERMAN gave to Cooperman Plaintiff 1 a check in the  
21 amount of \$2,500, in partial payment of his kickback share for  
22 the Pre-1991 Settled Cases.

23 Overt Act No. 35: On or about August 31, 1991,  
24 defendant COOPERMAN gave Cooperman Plaintiff 1 a check in the  
25 amount of \$2,900, as final payment of his kickback share for the  
26 Pre-1991 Settled Cases.

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28 / / /

1 C. Cineplex Odeon

2 Overt Act No. 36: On or about April 28, 1989, defendant  
3 COOPERMAN, Milberg Weiss, and others caused to be filed a class  
4 action complaint in Cineplex Odeon, naming COOPERMAN as a  
5 plaintiff.

6 Overt Act No. 37: On or about December 31, 1991,  
7 Milberg Weiss obtained attorneys' fees of \$213,767 in Cineplex  
8 Odeon.

9 Overt Act No. 38: On or about January 8, 1992, at  
10 defendant COOPERMAN's direction, Milberg Weiss and Bershad caused  
11 a \$21,376 check to be issued to Tierney, falsely described by  
12 Bershad in a cover letter as his "referral fee" in Cineplex  
13 Odeon.

14 Overt Act No. 39: On or about January 20, 1992, at  
15 COOPERMAN's direction, Tierney paid defendant COOPERMAN a \$10,000  
16 check, falsely described as a "loan" to COOPERMAN, from the  
17 proceeds of the Milberg Weiss check described in  
18 Overt Act No. 38.

19 D. One Bancorp

20 Overt Act No. 40: On or about August 22, 1989,  
21 defendant COOPERMAN purchased 50 shares of stock in The One  
22 Bancorp, Inc. to position Milberg Weiss and himself to file a  
23 lawsuit regarding that company.

24 Overt Act No. 41: On or about August 22, 1989,  
25 defendant COOPERMAN sent a letter to Partner B and Schulman that  
26 referenced One Bancorp, stating, "I believe this company will be  
27 bankrupt within a few months. They just suspended dividend, and  
28 announced \$10M quarterly loss. Let's watch for a few weeks

1 before filing, as the stock is selling for approximately what I  
2 paid (\$5+) but will be a lot less soon. Clearly poor management  
3 Steve."

4 Overt Act No. 42: On or about December 28, 1989,  
5 defendant COOPERMAN, Milberg Weiss, and others caused to be filed  
6 a class action complaint in One Bancorp, naming COOPERMAN as a  
7 plaintiff.

8 Overt Act No. 43: On or about September 13, 1990,  
9 defendant COOPERMAN subscribed, under penalty of perjury, to a  
10 declaration in One Bancorp in which he falsely stated that: (a)  
11 he did not recall the exact circumstances of his purchase of One  
12 Bancorp stock but he believed at the time of his purchase that it  
13 represented a good value; and (b) only after the price of One  
14 Bancorp stock dropped precipitously and adverse information was  
15 disclosed did COOPERMAN decide to contact Milberg Weiss.

16 Overt Act No. 44: On or about July 9, 1991, in an under  
17 oath deposition in One Bancorp, defendant COOPERMAN falsely  
18 stated that he was not aware of any possible conflicts of  
19 interest between himself and other class members.

20 Overt Act No. 45: On or about August 9, 1993,  
21 Milberg Weiss obtained attorneys' fees of \$393,325 in One  
22 Bancorp.

23 Overt Act No. 46: On or about August 16, 1993, at  
24 defendant COOPERMAN's direction, Milberg Weiss and Bershad issued  
25 a check in the amount of \$39,332.46 to Purtich's firm, with a  
26 cover letter signed by Bershad falsely describing the payment as  
27 "your interest in the fee earned by my firm."

28 / / /

1           Overt Act No. 47: In or about August 1993, defendant  
2 COOPERMAN caused Purtich to use the proceeds of the check  
3 described in Overt Act No. 46 to satisfy legal fees that  
4 COOPERMAN owed to Purtich's law firm.

5 **E.   Jan Bell**

6           Overt Act No. 48: On or about December 6, 1989,  
7 defendant COOPERMAN sent to Partner B a letter referencing four  
8 companies, including Jan Bell Marketing, and stating, "I believe  
9 there are major problems with all 4."

10          Overt Act No. 49: On or about December 6, 1989,  
11 defendant COOPERMAN sent to Schulman a letter referencing four  
12 companies, including Jan Bell Marketing, and stating, "4 of my  
13 holdings have what I believe to be major problems - I discussed  
14 with [Partner B], he can give you details."

15          Overt Act No. 50: On or about December 7, 1989,  
16 defendant COOPERMAN purchased 50 shares of stock in Jan Bell to  
17 position Milberg Weiss and himself to file a lawsuit regarding  
18 the company.

19          Overt Act No. 51: On or about March 7, 1990, defendant  
20 COOPERMAN, Milberg Weiss, and others caused to be filed a class  
21 action complaint in Jan Bell, naming COOPERMAN as a plaintiff.

22          Overt Act No. 52: On or about March 22, 1991, in an  
23 under oath deposition in Jan Bell, defendant COOPERMAN falsely  
24 testified, among other things, that in other lawsuits in which he  
25 had been a named plaintiff for Milberg Weiss he had never  
26 received any money other than his shareholder portion of the  
27 settlements, and that "whatever the court awards as compensation  
28 or a judgment," he would "collect [his] share based on how much



1 stock [he] bought."

2 Overt Act No. 53: On or about July 21, 1992, at  
3 defendant COOPERMAN's direction, Milberg Weiss and Bershad caused  
4 to be sent to Purtich a \$19,363 check, with a cover letter by  
5 Bershad falsely stating that the payment was "in consideration of  
6 your consultation and referral of Dr. Cooperman to our firm."

7 Overt Act No. 54: On or about July 22, 1992, defendant  
8 COOPERMAN caused Purtich to use the proceeds of the Milberg Weiss  
9 check described in Overt Act No. 53 to satisfy legal fees that  
10 COOPERMAN owed to Purtich's law firm.

11 **F. American Continental/Lincoln Savings**

12 Overt Act No. 55: On or about January 30, 1989, with  
13 the encouragement of defendant COOPERMAN and acting in  
14 consultation with Partner B, Cooperman Plaintiff 1 purchased 100  
15 shares of stock in American Continental Corporation ("ACC") for  
16 the purpose of positioning Milberg Weiss and himself to file a  
17 lawsuit regarding that company.

18 Overt Act No. 56: On or about April 24, 1989,  
19 Milberg Weiss, Partner B, and others caused to be filed a class  
20 action complaint in American Continental/Lincoln Savings, naming  
21 Cooperman Plaintiff 1 as a plaintiff.

22 Overt Act No. 57: On or about November 2, 1989,  
23 Cooperman Plaintiff 1, acting in concert with defendant  
24 COOPERMAN, Milberg Weiss, Partner B, and others, subscribed under  
25 penalty of perjury to Answers to Interrogatories in American  
26 Continental/Lincoln Savings, which falsely concealed that Partner  
27 B had discussed with Cooperman Plaintiff 1 and defendant  
28

1 COOPERMAN purchasing ACC stock to position Milberg Weiss and  
2 Cooperman Plaintiff 1 to file a lawsuit regarding that company.

3 Overt Act No. 58: On or about April 22, 1991, in an  
4 under oath deposition in American Continental/Lincoln Savings,  
5 Cooperman Plaintiff 1, acting in concert with defendant  
6 COOPERMAN, Milberg Weiss and others, falsely stated, among other  
7 things, that he would not receive any payment from any source in  
8 exchange for serving as a named plaintiff in American  
9 Continental/Lincoln Savings, and that he did not receive any  
10 compensation in Newhall Land beyond that which he received as a  
11 member of the class.

12 Overt Act No. 59: In or about October 1992, defendant  
13 COOPERMAN told Purtich that Milberg Weiss would be sending  
14 Purtich a substantial amount of money, which was COOPERMAN's  
15 share of Milberg Weiss's attorneys' fees in American  
16 Continental/Lincoln Savings.

17 Overt Act No. 60: On or about October 21, 1992, at  
18 defendant COOPERMAN's direction, Milberg Weiss and Bershad issued  
19 a \$440,000 check to Purtich's firm, accompanied by a cover letter  
20 from Bershad falsely stating the check was Purtich's  
21 "compensation for work and responsibility in our most recent  
22 endeavor."

23 Overt Act No. 61: On or about October 23, 1992,  
24 defendant COOPERMAN caused Purtich to forward \$215,000 of the  
25 proceeds of the Milberg Weiss \$440,000 check described in  
26 Overt Act No. 60 to COOPERMAN.

27 Overt Act No. 62: On or about October 26, 1992,  
28 defendant COOPERMAN paid Cooperman Plaintiff 1 \$129,000 of the

1 \$215,000 forwarded by Purtich as described in Overt Act No. 61,  
2 as his share of the kickback that COOPERMAN had received in  
3 American Continental/Lincoln Savings.

4 **G. Fairfield Communities**

5 Overt Act No. 63: On or about June 29, 1990, defendant  
6 COOPERMAN, Milberg Weiss, and others caused to be filed with the  
7 court a class action complaint in Fairfield Communities, naming  
8 COOPERMAN as a plaintiff.

9 Overt Act No. 64: On or about November 29, 1990,  
10 defendant COOPERMAN, acting in concert with Milberg Weiss,  
11 subscribed under penalty of perjury to Answers to Interrogatories  
12 in Fairfield Communities, falsely stating, among other things,  
13 that COOPERMAN had "at no time received any bonus or incentive  
14 payment as a result of being named as a plaintiff in any class or  
15 derivative actions."

16 Overt Act No. 65: On or about July 17, 1990, in an  
17 under oath deposition in Fairfield Communities, defendant  
18 COOPERMAN, acting in concert with Milberg Weiss and others,  
19 falsely denied that he had received any benefit in connection  
20 with Newhall Land other than those paid to all shareholders.

21 Overt Act No. 66: On or about July 16, 1993, Schulman  
22 represented to the court, in support of a request for attorneys'  
23 fees in Fairfield Communities, that Milberg Weiss was not seeking  
24 any incentive bonus award on behalf of defendant COOPERMAN, and  
25 that COOPERMAN was "satisfied to participate as a class member in  
26 the recovery of his claim."

1           Overt Act No. 67: On or about August 10, 1993,  
2 Milberg Weiss obtained approximately \$249,962.69 in attorneys'  
3 fees in Fairfield Communities.

4           Overt Act No. 68: On or about August 16, 1993, at  
5 defendant COOPERMAN's direction, Milberg Weiss and Bershad caused  
6 to be issued to Purtich's firm a \$24,996.27 check, along with a  
7 cover letter signed by Bershad falsely stating that the check  
8 "represents your interest in the fee earned by my firm in"  
9 Fairfield Communities.

10           Overt Act No. 69: In or about October 1993, defendant  
11 COOPERMAN caused Purtich to use the proceeds of the check  
12 described in Overt Act No. 68 to satisfy legal fees that  
13 COOPERMAN owed to Purtich's firm.

14 **H. Columbia Savings**

15           Overt Act No. 70: On or about November 9, 1989,  
16 defendant COOPERMAN, Milberg Weiss, and others caused to be filed  
17 a class action complaint in Columbia Savings, naming COOPERMAN as  
18 a plaintiff.

19           Overt Act No. 71: On or about January 11, 1990,  
20 Milberg Weiss, Partner B, and others caused to be falsely  
21 represented to the court in Columbia Savings, in support of a  
22 motion for class certification, that the interests of defendant  
23 COOPERMAN in the lawsuit "do not in any manner conflict with, nor  
24 are they antagonistic to, those of the class."

25           Overt Act No. 72: On or about February 28, 1990,  
26 defendant COOPERMAN, acting in concert with Milberg Weiss,  
27 Partner B, and others, subscribed under penalty of perjury to  
28 interrogatory responses in Columbia Savings in which, among other

1 things, he falsely stated in response to a question whether he  
2 had any "agreement, arrangement, expectation, intention, or  
3 understanding . . . with respect to receiving any payment or  
4 consideration different from the payment or consideration that  
5 may be received by other members of the putative class as a  
6 result of this litigation" the following: "I will not be treated  
7 differently than any other class member regarding any recovery."

8 Overt Act No. 73: On or about June 28, 1990, in an  
9 under oath deposition in the Columbia Savings lawsuit, defendant  
10 COOPERMAN, acting in concert with Milberg Weiss and others,  
11 concealed his kickback arrangement with Milberg Weiss.

12 Overt Act No. 74: On or about December 10, 1992,  
13 defendant COOPERMAN sent Partner B a letter, enclosing a court  
14 notice that referenced a hearing on award of attorneys' fees in  
15 Columbia Savings, in which he asked Partner B, "I received this  
16 today - has the hearing for atty's fees happened yet? If so, how  
17 did we do? Please let me know - also, is there a payout date?"

18 Overt Act No. 75: On or about December 28, 1993,  
19 Milberg Weiss obtained approximately \$3,926,452 in attorneys'  
20 fees in Columbia Savings.

21 Overt Act No. 76: On or about March 31, 1994, at  
22 defendant COOPERMAN's direction, Milberg Weiss and Bershad caused  
23 to be sent to Purtich a \$200,000 check, along with a cover letter  
24 signed by Bershad falsely describing the payment as "a portion of  
25 your entitlement" to the attorneys' fees in Columbia Savings.

26 Overt Act No. 77: In or about April 1994, defendant  
27 COOPERMAN caused Purtich to use the proceeds of the \$200,000  
28

1 check described in Overt Act No. 76 to satisfy legal fees that  
2 COOPERMAN owed to Purtich's law firm.

3 Overt Act No. 78: On or about July 26, 1994,  
4 Milberg Weiss obtained approximately \$8,210,164 in attorneys'  
5 fees in Columbia Savings.

6 Overt Act No. 79: On or about July 27, 1994, at  
7 defendant COOPERMAN's direction, Milberg Weiss and Bershad caused  
8 to be sent to Purtich a \$200,000 check, along with a cover letter  
9 signed by Bershad falsely representing the payment to be "your  
10 current entitlement" to the attorneys' fees in Columbia Savings.

11 Overt Act No. 80: In or about July 1994, defendant  
12 COOPERMAN caused Purtich to use the proceeds of the \$200,000  
13 check described in Overt Act No. 79 to satisfy legal fees that  
14 COOPERMAN owed to Purtich's law firm.

15 Overt Act No. 81: On or about September 22, 1994, at  
16 defendant COOPERMAN's direction, Milberg Weiss and Bershad caused  
17 to be sent to Purtich a \$191,278 check, along with a cover letter  
18 signed by BERSHAD describing the payment to be "in furtherance of  
19 our prior arrangement" concerning Columbia Savings.

20 Overt Act No. 82: In or about September 1994, defendant  
21 COOPERMAN caused Purtich to use the proceeds of the check  
22 described in Overt Act No. 81 to satisfy legal fees that  
23 COOPERMAN owed to Purtich's law firm.

24 I. SCI-Television

25 Overt Act No. 83: On or about March 10, 1994, defendant  
26 COOPERMAN, Milberg Weiss, Partner B, and others caused to be  
27 filed a verified class action complaint in SCI-Television, naming  
28 COOPERMAN as a plaintiff.

1           Overt Act No. 84: On or about March 21, 1994, in an  
2 under oath deposition in SCI-Television, defendant COOPERMAN  
3 falsely stated that he had never been compensated for appearing  
4 as a plaintiff in a class action case.

5           Overt Act No. 85: On or about November 11, 1994,  
6 defendant COOPERMAN, acting in concert with Milberg Weiss and  
7 others, executed a declaration under penalty of perjury to be  
8 filed with the court in SCI-Television, which falsely stated,  
9 among other things, that there were no legal differences in  
10 COOPERMAN's status as a class member and those of other persons  
11 within the class; there were no unique legal issues pertaining to  
12 COOPERMAN as a class representative; and COOPERMAN "anticipate[d]  
13 receiving [his] pro rata share, and no more, of the damages  
14 received by this class."

15           Overt Act No. 86: On or about November 1, 1995, at  
16 defendant COOPERMAN's direction, Milberg Weiss and Bershad caused  
17 to be sent to Purtich a \$100,000 check, with a cover letter  
18 signed by Bershad falsely describing the check as a payment  
19 "towards your participation" in SCI-Television.

20           Overt Act No. 87: On or about November 2, 1995,  
21 Milberg Weiss obtained approximately \$3,218,329.50 in attorneys'  
22 fees in SCI-Television.

23           Overt Act No. 88: On or about November 16, 1995, at  
24 defendant COOPERMAN's direction, Milberg Weiss and Bershad caused  
25 to be sent to Purtich an \$81,846 check, with a cover letter  
26 signed by Bershad falsely describing the payment as being "with  
27 regard to your participation as counsel in [SCI Television]."  
28

1           Overt Act No. 89: In or about November 1995, defendant  
2 COOPERMAN caused Purtich to use the proceeds of the checks  
3 described in Overt Acts Nos. 86 and 88 to satisfy legal fees that  
4 COOPERMAN owed to Purtich's law firm.

5 **J.   Community Psychiatric**

6           Overt Act No. 90: On or about September 30, 1991,  
7 defendant COOPERMAN, Milberg Weiss, and others caused to be filed  
8 a class action complaint in Community Psychiatric, naming  
9 COOPERMAN as a plaintiff.

10          Overt Act No. 91: On or about February 29, 1996,  
11 Milberg Weiss obtained approximately \$4,123,000 in attorneys'  
12 fees in Community Psychiatric.

13          Overt Act No. 92: On or about November 11, 1996, at  
14 defendant COOPERMAN's direction, Milberg Weiss and Bershad caused  
15 to be provided to COOPERMAN a \$114,891.50 check, made payable to  
16 Tierney, relating to Community Psychiatric.

17          Overt Act No. 93: On or about November 12, 1996,  
18 defendant COOPERMAN deposited the \$114,891.50 check described in  
19 Overt Act No. 92 into his personal bank account.

20 **K.   Heart Technology**

21          Overt Act No. 94: On or about August 11, 1995, with the  
22 encouragement of defendant COOPERMAN, Cooperman Plaintiff 2  
23 purchased 100 shares of stock in Heart Technology Inc., for the  
24 purpose of positioning Milberg Weiss and himself to file a  
25 lawsuit regarding that company.

26          Overt Act No. 95: On or about August 30, 1995,  
27 Milberg Weiss, Bershad, Schulman, and others caused to be filed a  
28



1 class action complaint in Heart Technology, naming Cooperman  
2 Plaintiff 2 as a plaintiff.

3 Overt Act No. 96: On or about March 13, 1997, Cooperman  
4 Plaintiff 2, acting in concert with defendant COOPERMAN, Milberg  
5 Weiss and others, subscribed under penalty of perjury to an  
6 affirmation in which he falsely stated that he had "no claim or  
7 interest that is adverse to Heart [Technology] or its  
8 stockholders."

9 Overt Act No. 97: On or about May 5, 1997,  
10 Milberg Weiss obtained approximately \$198,589.63 in attorneys'  
11 fees in Heart Technology.

12 Overt Act No. 98: On or about May 6, 1997, at defendant  
13 COOPERMAN's direction, Milberg Weiss, Bershad, and others caused  
14 to be sent to COOPERMAN a check payable to Purtich in the amount  
15 of \$19,858.96, representing 10% of the fees awarded in Heart  
16 Technology.

17 Overt Act No. 99: On or about May 8, 1997, defendant  
18 COOPERMAN caused the \$19,858.96 check described in  
19 Overt Act No. 98 to be deposited into his personal bank account.

20 Overt Act No. 100: On or about May 14, 1997, defendant  
21 COOPERMAN caused to be sent to Purtich a check in the amount of  
22 \$19,858.96.

23 Overt Act No. 101: In or about May 1997, defendant  
24 COOPERMAN caused Purtich to use proceeds of the check described  
25 in Overt Act No. 100 to satisfy legal fees owed to Purtich by  
26 COOPERMAN.

27 Overt Act No. 102: On or about October 3, 1997,  
28 defendant COOPERMAN caused Purtich to pay Cooperman Plaintiff 2

1 \$10,000, representing Cooperman Plaintiff 2's share of the  
2 Milberg Weiss kickback in Heart Technology.

3 L. Cetus

4 Overt Act No. 103: On or about July 11, 1990, defendant  
5 COOPERMAN purchased stock in Cetus Securities, for the purpose of  
6 positioning Milberg Weiss and himself to file a lawsuit regarding  
7 that company.

8 Overt Act No. 104: On or about July 12, 1990, defendant  
9 COOPERMAN sent a letter to Partner B advising him that COOPERMAN  
10 expected a "negative bombshell" to be announced about Cetus.

11 Overt Act No. 105: On or about July 20, 1990, defendant  
12 COOPERMAN, Milberg Weiss, and others caused to be filed a class  
13 action complaint in Cetus, naming COOPERMAN as a plaintiff.

14 Overt Act No. 106: On or about October 28, 1991,  
15 Milberg Weiss obtained attorneys' fees of \$666,576 in Cetus.

16 Overt Act No. 107: On or about November 6, 1991,  
17 Milberg Weiss obtained additional attorneys' fees of \$1,118,489  
18 in Cetus.

19 Overt Act No. 108: On or about November 20, 1991, at  
20 defendant COOPERMAN's direction, Milberg Weiss and Bershad caused  
21 to be sent to Tierney a \$178,506.56 check, with a cover letter  
22 signed by Bershad falsely describing the payment as a "referral  
23 fee" that Tierney earned in Cetus.

24 Overt Act No. 109: On or about November 21, 1991, at  
25 defendant COOPERMAN's direction, Tierney provided to COOPERMAN a  
26 \$100,000 check, falsely described as a "Loan," from the proceeds  
27 of the Milberg Weiss check described in Overt Act No. 108.

1           Overt Act No. 110: On or about July 19, 1993, defendant  
2 COOPERMAN faxed to Partner B a copy of the \$35.28 check COOPERMAN  
3 had received as his pro rata share of the class settlement in  
4 Cetus, along with a note addressed to Partner B stating, "Cetus  
5 settled . . . justice prevails!"

6 **M.   Other Overt Acts**

7           Overt Act No. 111: On or about November 8, 1989,  
8 Schulman prepared a memorandum for Partner B that referenced the  
9 "Cooperman/[Cooperman Plaintiff 1] Litigation" and described the  
10 current status of 13 cases pursued by Milberg Weiss in which  
11 COOPERMAN and Cooperman Plaintiff 1 were named plaintiffs.

12           Overt Act No. 112: On or about November 16, 1990, in  
13 his under oath deposition as a plaintiff in Valley National,  
14 defendant COOPERMAN, acting in concert with Milberg Weiss and  
15 others, falsely denied that he had received any payment for  
16 serving as a plaintiff in Newhall Land, and concealed his  
17 expectation that Milberg Weiss would pay him for being a class  
18 representative in Valley National.

19           Overt Act No. 113: On or about January 9, 1991,  
20 defendant COOPERMAN sent to Milberg Weiss and Partner B a  
21 handwritten list of 35 filed and potential class actions and  
22 shareholder derivative lawsuits for which COOPERMAN expected to  
23 be paid kickbacks by Milberg Weiss, comprised of cases in which  
24 the COOPERMAN Plaintiffs and other plaintiffs provided by  
25 COOPERMAN participated, as well as matters in which COOPERMAN  
26 provided information for use by Milberg Weiss to develop the  
27 case, with COOPERMAN's notes to Partner B indicating COOPERMAN's  
28

1 understanding of the amounts of attorneys' fees Milberg Weiss had  
2 received for those cases.

3 Overt Act No. 114: On or about January 9, 1991,  
4 Partner B had his secretary type up a "chart" reflecting all the  
5 information included in the hand written list of cases that  
6 defendant COOPERMAN had provided him, described in  
7 Overt Act No. 113.

8 Overt Act No. 115: On or about March 9, 1992, at the  
9 direction of Partner B, another Milberg Weiss attorney prepared  
10 and provided to Purtich written legal research, analysis and  
11 arguments to be used by Purtich to seek dismissal of a civil RICO  
12 claim asserted against COOPERMAN in the Paul Revere matter, which  
13 legal services were provided by Milberg Weiss and Partner B at no  
14 charge to COOPERMAN.

15 Overt Act No. 116: On or about May 21, 1992, in  
16 response to an April 27, 1992 National Law Journal ("NLJ")  
17 article that cited defendant COOPERMAN's serving as a plaintiff  
18 in 19 shareholder lawsuits filed in federal and state courts in  
19 Los Angeles and allegations against COOPERMAN in the Paul Revere  
20 matter that he had bought 15 disability insurance policies from  
21 15 different insurance companies without telling them about his  
22 heart condition and was using part of the benefits to create  
23 litigation, Partner B wrote a letter to the Editor-in-Chief of  
24 the NLJ in which Partner B insisted, "Dr. Cooperman's reputation  
25 and character are impeccable and any inference to the contrary  
26 which may be drawn from your article is unfair and unwarranted."

27 Overt Act No. 117: On or about July 3, 1992, defendant  
28 COOPERMAN, acting in concert with Milberg Weiss and others,

1 subscribed under penalty of perjury to answers to interrogatories  
2 directed to him as a plaintiff in a state class action relating  
3 to MBNA Bank, which falsely stated that COOPERMAN had never,  
4 directly or indirectly, received payment from Milberg Weiss.

5 Overt Act No. 118: On or about March 19, 1994,  
6 defendant COOPERMAN sent Partner B a letter, enclosing a court  
7 notice that referenced a pending settlement hearing in Sunrise  
8 Technologies, in which he asked Partner B, "got this today - This  
9 was case I brought to you & you said I'd be treated as plaintiff  
10 - how did we make out? Steve."

11 Overt Act No. 119: On or about September 22, 1994, at  
12 defendant COOPERMAN's direction, Milberg Weiss, Bershad,  
13 Partner B, and others caused to be sent to Purtich a \$12,800  
14 check, with a cover letter signed by Bershad falsely describing  
15 the payment to be "in furtherance of our prior arrangement" with  
16 respect to Sunrise Technologies.

17 Overt Act No. 120: On or about May 19, 1995, defendant  
18 COOPERMAN sent a letter to Bershad in which he stated, in  
19 reference to the MTC Electronics class action, "I brought this  
20 case to [Partner B] - we decided I should not be the named  
21 plaintiff, but [Partner B] told me he would treat case (referral-  
22 wise) as if I was the plaintiff, since I brought it to the firm.  
23 I believe the case has recently been settled. Please check it  
24 out & let me know details. I'll let you know who the referral  
25 lawyer should be when I know the amount."

26 Overt Act No. 121: On or about June 1, 1995, defendant  
27 COOPERMAN caused to be sent to Milberg Weiss and Partner B a  
28 letter stating, among other things, "Re: Infant Formula case -

1 please do ASAP - our share goes to [Purtich] - he's pressing me  
2 for \$ - please send me copy."

3 Overt Act No. 122: On or about July 7, 1995, at  
4 defendant COOPERMAN's direction, Milberg Weiss, Bershad, Partner  
5 B, and others caused to be sent to Purtich a \$25,868 check, with  
6 a cover letter signed by Bershad falsely describing the payment  
7 as Purtich's "share of attorney's fees with regard to [Infant  
8 Formula]."

9 Overt Act No. 123: On or about November 6, 1996,  
10 defendant COOPERMAN, acting in concert with Milberg Weiss,  
11 Bershad, Schulman, and others, signed under penalty of perjury a  
12 certification to be filed with the district court in the Lawsuit  
13 Steven Cooperman v. Individual, Inc., et al., 96-CV-12272, (D.  
14 Ma.), in which COOPERMAN falsely stated that he would "not accept  
15 any payment for serving as a representative party on behalf of a  
16 class beyond plaintiff's pro rata share of any recovery, except

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1 such reasonable costs and expenses (including lost wages)  
2 directly relating to the representation of the Class as ordered  
3 or approved by the Court."  
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5 GEORGE S. CARDONA  
6 Acting United States Attorney  
7

8 THOMAS P. O'BRIEN  
9 Assistant United States Attorney  
Chief, Criminal Division

10 DOUGLAS A. AXEL  
11 Assistant United States Attorney  
Deputy Chief, Major Frauds Section

12 RICHARD E. ROBINSON  
13 ROBERT J. MCGAHAN  
Assistant United States Attorneys  
Major Frauds Section  
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CERTIFICATE OF SERVICE

I, **Temeria Wylie**, declare:

That I am a citizen of the United States and resident or employed in Los Angeles County, California; that my business address is the Office of United States Attorney, United States Courthouse, 312 North Spring Street, Los Angeles, California 90012; that I am over the age of eighteen years, and am not a party to the above-entitled action;

That I am employed by the United States Attorney for the Central District of California who is a member of the Bar of the United States District Court for the Central District of California, at whose direction I served a copy of: **PLEA AGREEMENT FOR DEFENDANT STEVEN G. COOPERMAN**

service was: **Russell M. Gioiella, Esq.**  
**Litman, Asche & Gioiella LLP**  
**45 Broadway Atrium**  
**New York, NY 10017**

☐ Placed in a closed envelope, for collection and interoffice delivery addressed as follows:

☒ Placed in a sealed envelope for collection and mailing via United States Mail, addressed as follows:

☐ By hand delivery addressed as follows:  
**IN COURT**

☐ By e-mail as follows:

☐ By facsimile as follows

☐ By messenger as follows: ☐ By federal express as follows:

This Certificate is executed on **January 31, 2007**, at Los Angeles, California.

I certify under penalty of perjury that the foregoing is true and correct.

  
**TERERIA WYLIE**